



July 16, 2004

ELECTRONICALLY FILED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Ex Parte Presentation in
Performance Measurements and Standards for Interstate Special Services, CC Dkt. No. 01-321;
Non-Accounting Safeguards of Sections 271 and 272, CC Dkt. No. 96-149;
Accounting Safeguards Under the Telecommunications Act, CC Dkt. No. 96-150;
Section 272(f)(1) Sunset of BOC Separate Affiliate and Related Requirements, WC Dkt. No. 02-112;
BellSouth Section 272 Audit, EB Dkt. No. 03-197;
Qwest Section 272 Audit, EB Dkt. No. 03-198;
SBC Section 272 Audit, EB Dkt. No. 03-199; and
Verizon Section 272 Audit, EB Dkt. No. 03-200.

Dear Ms. Dortch:

The Ad Hoc Telecommunications Users Committee (the "Ad Hoc Committee"), through undersigned counsel, submits this letter in opposition to the proposals of BellSouth, SBC, Qwest, and Verizon for special access performance standards filed in the above-referenced proceedings. In accordance with the Commission's Rules, please file a copy of this letter in the public record of those proceedings.

The Ad Hoc Committee adopts and endorses the analysis of those proposals that the Joint Competitive Industry Group ("JCIG") filed on June 28, 2004 (the "JCIG Critique"). For the reasons set forth in that submission and in the Committee's Comments and Reply Comments filed January 22, 2002, and February 12, 2002, respectively, in CC Docket No. 01-321, the Committee urges the Commission to adopt JCIG's proposed performance standards and reject those proposed by the Bell Operating Companies ("BOCs").

The members of the Ad Hoc Committee are among the nation's largest corporate users of telecommunications services, including special access. The members order special access from the incumbent local exchange carriers ("ILECs"), both directly and through the members' interexchange carriers.



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Regardless of the procurement avenue taken, the ILECs' provisioning practices have been wholly unsatisfactory across-the-board, as the Ad Hoc Committee explained to the Commission in its Reply Comments referenced above, as well as in *ex parte* meetings with Commission staff in May, 2002. Whether the issue is provisioning delays, ineffective or untimely restoration of defective circuits, or other provider performance deficiencies, the effects on enterprise end users include business disruptions, substantial cost increases, and unexpected and significant demands on their telecommunications personnel.

As the JCIG Critique explains, while there are many flaws with the BOCs' performance standards proposals, their principal shortcomings are three-fold. First, the BOC proposals are based on a parity standard, *i.e.*, a standard measuring BOC performance for its retail customers against its performance with respect to wholesale customers. The Ad Hoc Committee has consistently advised the Commission that such a comparative standard is inadequate and must be rejected in favor of objective measurements, because parity would exist – and thus the BOC standards would be satisfied – as long as all customers are treated equally, even if such treatment is wholly unacceptable. End user customers and IXCs alike require that special access services be provided in a just and reasonable manner, as Section 201 of the Communications Act prescribes.

The second major deficiency in the BOCs' proposals is that they lack meaningful enforcement mechanisms, including any mechanism for correction of demonstrably unacceptable performance. In its Comments and Reply Comments in CC Docket 01-321, the Ad Hoc Committee argued that effective enforcement is critical to achieving the ultimate goal of any performance standards regime: improving carriers' performance and, in turn, customers' experience. No performance standards proposal should be adopted unless it provides for a combination of forfeitures for sub-standard performance and payments or credits to customers who are adversely affected by such performance.

The third significant flaw with the BOCs' proposals is that they do not measure performance failures; they track only instances in which performance meets or exceeds expectations. Unlike JCIG's proposal, the BOCs' proposals would not gather information regarding Access Service Requests ("ASRs") for which no Firm Order Commitment ("FOC") is provided nor information regarding missed installation appointments. The absence of such information seriously undermines the value of the other data these proposals would gather and it reduces the usefulness of such data as a tool to improve performance.



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Large enterprise users, such as the members of the Ad Hoc Committee, ultimately pay the price for poor special access provisioning, whether they purchase special access directly from an ILEC or through an IXC. In Committee members' experience, the special access market is not yet competitive enough to discipline ILEC behavior. Until that time arrives, the Commission should adopt and enforce meaningful performance standards that address the concerns of end users as well as of downstream providers. The Joint Competitive Industry Group Proposal would achieve these objectives far more effectively than would any of the BOCs' proposals.

We would be pleased to answer any questions you may have regarding the Ad Hoc Committee's position on special access performance standards. Please direct any questions to the undersigned.

Respectfully submitted,

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Counsel for the
AD HOC TELECOMMUNICATIONS
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